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Res Gestae

STUDENT NEWSPAPER OF THE UNIVERSITY OF MICHIGAN LAW SCHOOL

November 15, 2005

Since 1950

Vol. 56 No. 6

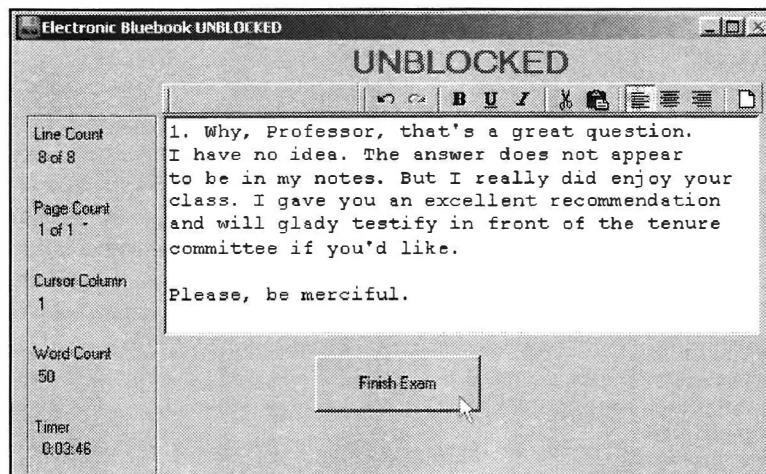
Question the Answers: Professors Provide Powerful Exam Tips

By Bria LaSalle

As the weeks before Thanksgiving slip by with alarming speed, so does the time until finals. Though classmates and study groups can provide valuable insight and a oft-needed grounding in reality, Law School professors have a privileged perspective on what will best suit their grading tastes. Here are a few thoughts from professors about preparing for and writing law school exams.

From **John Pottow**
Secured Transactions, Bankruptcy

I have discovered a phenomenon, which I think may result from computers, where I read what I think are pre-packaged (or pre-thought-out) "summaries" of law on a point. So when I have a question involving a voidable preference payment under the Bankruptcy Code, I sometimes read a half-page to a page in some answers about what preferences are, what the general requirements are, etc. But they have nothing to do with this question



Yeah, That's probably not going to cut it. If only they gave points for honesty.

in particular and the issue I'm testing (e.g., whether the transfer was on account of an antecedent debt). I feel bad, because these students are accruing no points (and clearly spending time). They usually get to the relevant (and point-accruing) issue, but not for a bit.

Even worse, when I ask a question like "What is your advice to your client? What would happen in Chapter 11?" at the end of a long issue-spotter, I sometimes get a more general disquisition on Chapter 11: how to arrange financing for a business debtor, how the automatic stay works, etc. when the question is an issue-spotter that has plenty of issues, but no stay issues and no financing issues. Tragic waste of time - both the student's and mine, and a

waste of trees. No points. So read the question, try to identify the issues presented, and outline your analysis first before plunging into writing.

The last thing I feel bad about when I read - and this may be just the way I grade - is when students give me "conclusory" statements. Just like in math class, I like students to show their work. This is not just to give them partial credit; it is because

in law, perhaps unlike math, the work is equally if not more important than the solution. If someone says "The payment to X wasn't a preference, so the Trustee won't be able to get that back," I give very few points. This is especially distressing if I agree with that conclusion. I can't take the student's say-so, especially if I've designed the question to be a close call. She could be equally demonstrating full grasp of the material or lucky guess. Professors like to read your legal analysis of what they flatter themselves are fascinating legal issues.

I have encountered few professors who design their questions to be resolved by

CONTINUED on Page 15

NOV 15 2005



Res Gestae

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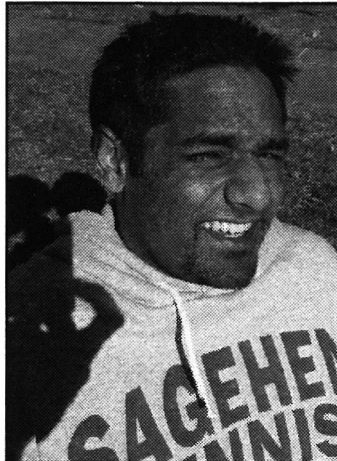
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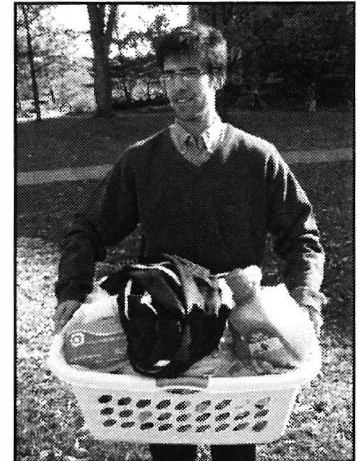
Question on the Quad: "Do you have a recurring nightmare?"

Reporting by Dan Clark and Jay Surdukowski



Samir Vora, 2L

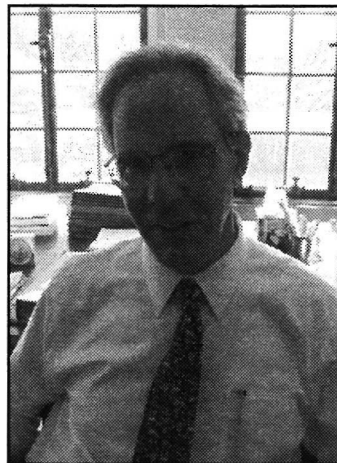
That someone might steal Blankey.



Brett Greenberg, 1L

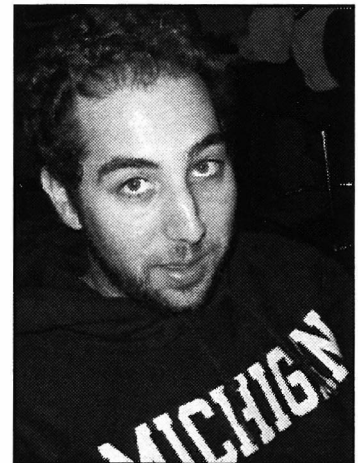
Being trapped in a swimming pool
with a killer whale.

[QQ: He answered this without a moment's
pause.]



Sam Gross, Professor

I have a recurring nightmare that I can't remember the name of the person I'm talking to. It happens hundreds of time a year, usually when I'm awake, most often in class.



Jason Weinstein, 3L

It's like *Die Hard 5* and I'm trapped on a cruise ship. I have to beat down the terrorists and escape on a jet ski.

Jay Surdukowski and Dan Clark dream in black and white. So does Lassie. However, we see in color and ruthlessly discriminate against the colorblind.

Professor Herzog Talks Torts, Teaching, and Swift

By Zach Smith

Don Herzog is the Edson R. Sunderland Professor of Law. His main teaching interests are political, moral, legal, and social theory; constitutional interpretation; torts; and the First Amendment. He is the author of *Without Foundations: Justification in Political Theory*, *Happy Slaves: A Critique of Consent Theory*, *Poisoning the Minds of the Lower Orders*, *Cunning* (in press), and began doing serious work on a Jonathan Swift-related project last summer. Professor Herzog holds an A.B. from Cornell University and both an A.M. and a Ph.D. from Harvard University, where he studied government. He joined the Political Science Department at the University of Michigan in 1983 and holds a joint appointment with that department and the Law School.



Res Gestae: You're obviously a busy guy. What fills up your schedule?

Don Herzog: During the regular school year? Teaching school and serving on committees, that's it.

RG: What committees?

DH: What committees am I on? I'm chair of the admissions committee. We don't actually read folders ordinarily because that's Sarah Zearfoss and her full-time staff, but we do policy stuff and we hear appeals and things about financial aid and debt forgiveness stuff. I'm on the Lateral Time Committee, which looks at people who already have tenure elsewhere or at least people who are close to tenure elsewhere, and whether we want to add them to our faculty.

RG: So what about when it's not during the school year?

DH: You're supposed to be able to do scholarship 12 months a year. I never get writing done when I'm teaching, period.

If it's summer and I'm on leave, I get a lot done on scholarship stuff and then I feel that it falls away from me. I'm also running a public law search for the political science department.

RG: What research did you do this past summer?

DH: This past summer I did two things. For the first time in my life, I wrote a law review article, a kind of case crunching piece. I'm not actually a lawyer, I'm a political theorist. Then I started doing serious work on Jonathan Swift, although I don't know quite yet what I'm going to do with it. But I'm reading basically every word we have of him.

RG: So you're not a lawyer by trade; you're a political science professor. Why did you decide to teach at the Law School?

DH: Because they asked me and it was great fun. That's easy, so what you need to ask is why the law school asked me. The short version of the story is that once upon a time in the 80s, there was a campus-wide faculty seminar on legal and political theory that Fred Schauer directed. He's no longer at the school. I showed up and liked it, and the Law School asked me to teach a seminar on an adjunct basis. So I taught a seminar, *Liberalism and It's Critics*, and they asked me to join the faculty half-time. Then they gave tenure to that half of me and

then they asked to move the other half over. There are some great people in the political science department, but this is actually a better fit for me so here I am.

RG: Was teaching something you always wanted to do?

DH: Oh yeah, I never left school. I went straight from high school to undergrad, undergrad to grad school.

RG: Was there a moment in particular that garnered your interest in politics?

DH: I'm not the right age for this, but my initial political memories are actually worrying about the Vietnam War when I was in grade school, at the ripe old age of 12, campaigning door to door for Eugene McCarthy to get us out of the war in Vietnam, which wasn't well received in my neighborhood at all. The work I now do on politics is oceans away from thinking about American policy, but I guess I've always been interested in politics. For a long time I thought I was a math/science student, but then eventually I figured out I wasn't. But that took a long time to sort out.

RG: So given your background in political science, how do you feel a legal education prepares law students to be lawyers?

DH: I have nothing screamingly obvious to say about that question. I don't actually believe in the "think like lawyers" riff, which may just mean I don't understand what I'm doing yet. But it teaches them how to read, it teaches them how to argue, it teaches them how to analyze.

RG: How are the law classes you teach different from the political science classes?

CONTINUED on Page 16

Over 70 M-Law Students 'Get Arrested' With New Club

**Submitted by James
Peyster**

The Emmy-Award winning television comedy *Arrested Development* airs Monday nights on Fox. I caught up with one of the founders of Michigan Law's new Arrested Development Club as he was furiously working the phones and e-mailing "contacts" in the entertainment and media worlds. Here is a Q and A with 3L Jay Surdukowski:

Q: First things first. Tell people like me - people who have never seen *Arrested Development* - what they're missing. What inspired such devotion in you and the other club founders?

Jay Surdukowski: The show is funny. Words do it an injustice. I guess the humor is timely in the Enron-Iraq dog days of the early twenty-first century. No one escapes as a target: terrorists, the president, immigrants, magicians, the English, the gays, Hollywood, hotcops, Abu Ghraib, Godzilla, Osama, Saddam, the Blue Man Group... It is also very clever and snugly fits into the canon of television. The Fonz played their lawyer for two seasons, Ron Howard narrates, and Scott Baio is their new lawyer. *Happy Days* are here again! We've seen Liza Minnelli, Carl Weathers, and Charlize Theron make extended and truly bizarre guest appearances. Some other people I know are famous like that annoying lady from *Seinfeld*. You have to understand I haven't watched a show with regularity since *The Dukes of Hazzard*, so...

Q: The club registration here at the law school is over 70 already, is it not?



Courtesy of 20th Century Fox.

JS: 73 members and counting. Who knew?

Q: Is there something about the show which speaks to law students in particular?

JS: (They say) "I have the worst fucking attorneys." No, I don't know. There is some crime and punishment going on, a little light treason, but I don't know, maybe the word play? The irreverence? The sometimes not-so-PC edginess. The dialogue is fast and can be pretty biting. There are lots of little jokes that are snuck in. A lot of times you need to watch the episodes multiple times to catch all the funny. For instance, it took me a bit to realize lawyer Barry Zuckerkorn (Henry Winkler) was jumping a shark on the dock.

Q: Your first club get-together featured refreshment was 'frozen bananas.' That probably had a few people scratching their heads.

JS: This is a staple of the show. George Sr. founded the Bluth Frozen Banana Stand on Balboa Island in 1953. It is the cornerstone of the Bluth empire and both Michael (Jason Bateman) and his son George Michael have worked long hours there. Anyway, they are bananas dipped in chocolate with nuts, and variations on the same.

Q: Are you planning any other club events involving bizarre delicacies?

JS: Actually, yes! Another treat from the show is the "cornball." Making them is known as "cornballing" or in the scandalous words of Lucille, "cornholing."

Another one of George Sr's wayward businesses was a very dangerous device that consisted of a vat of simmering oil and a little arm that would dip the cornball dough in. It is illegal everywhere, but still marketed in Mexico. So we might make those. But Meijer brand hushpuppies may need to be enlisted. But you know, the show is on the rocks and we may not have a chance to do cornballs. We are too busy fighting Fox Executives...

Q: How did you learn about Fox's decision to scale back the number of episodes for this season?

JS: E-mails started pouring in to our war room on Thursday. I think Variety was the first to pick up that the show order was down to 13 and that the show would be off air until sweeps are over. It blows the mind because critics love it. Emmy loves it. Golden Globe loves it. We love it. But

CONTINUED on Page 19



Academic Journals: Humanity's Only Hope?

By Mike Murphy

Many law students, myself included, spend a significant portion of their 2L and 3L lives on the corresponding sub-levels of the library toiling on student-produced legal academic journals. Are we wasting our time? Texas Law Professor Brian Leiter recently wrote, "...Anything can be published somewhere in a student-edited journal, because they are so damn many of them and most of them are desperate for material (and most of them are edited by individuals ill-equipped to evaluate most of the articles they receive)." He posted this, of course, in his internet blog.

If law students are "ill-equipped," who should staff the journals? Consider an alternative: last year, MIT students used a computer program to create a scholarly computer science article of complete gibberish and had it accepted for presentation at the World Multi-Conference on Systemics, Cybernetics and Informatics, which at least sounds impressive. The program's paper, *Rooter: A Methodology for the Typical Unification of Access Points and Redundancy*, had passages in it like "We can disconfirm that expert systems can be made amphibious, highly-available, and linear-time." (It reads like Con Law, I know.) The paper was approved, ironically, by the conference's automated filter, which was set to accepted all submissions that had certain buzzwords in them unless human reviewers rejected them.

A machine wrote it, and a machine accepted it. Maybe the machines will soon have their own conferences and deem their human counterparts to be unnecessary. I already regret the smack I talked about that computerized paperclip. Arnold, I am not Sarah Connor.

I disagree with Prof. Leiter. I don't think any article with the requisite pages (40-50) and footnotes (600-700) can get published anywhere. Most human-produced legal journals, as far as I know, reject a lot of articles from students, faculty and

practitioners. But I suppose they could just publish student writing and leave the big kid stuff to the big kids. Maybe law professors should self-publish their own research, on their web pages or something. But that hardly seems credible. With no external editing control, they could say any dumb thing.

Does it make sense for the engine of academic legal discourse to be directed by a bunch of slack-assed 3Ls, and for its fires to be stoked by a bunch of 2Ls? Should some "adults" be working on this stuff? I mean, judges cite this stuff sometimes in opinions. That's, like, the law. Next thing you know, kids straight out of law school will be ghost-writing judicial opinions. Like they're judges or something!

So journals are like training wheels for their editors in addition to being facilitators of contributions to academic discourse. Yeah, it's a lot to ask for a law student to decide what is and isn't a valid thesis for a scholarly article. But these aren't high school newspapers (or even, um, law school newspapers). The students staffing law school journals are obviously bright and certainly dedicated.

Or are they? It seems like a lot of students who work on journals feel like Leiter does; that student-produced journals are useless. As such, they don't like their editing jobs. One thing I've noticed about 2L classes young and old is that Associate Editors are shocked to discover that citation checking, in fact, sucks. Earth to 2Ls: of course it sucks! If it didn't suck, we 3Ls would do it ourselves. Plus, it would have a much cooler name, like "Extreme Hyperactive Fireball Footnote Development 2005 (Sponsored by Red Bull)." Think about it. You get one of those bad boy assignments in your e-mail and you'll think you won something! (Or caught something.)

Like grumpy smurfs with laptops, some students approach cite checking, the note process, and any other journal obligation with the enthusiasm and vitality one has upon discovering a bad rash. This is what

happens when people do things in law school because other people told them to. Law school works like that. You have to take X classes and do Y commitments to get Z job (or clerkship, or other feather in the cap). But once you get Z in October of 2L year, you still have X and Y to deal with. You can't take X and do Y only before OCI. It's like buying on margin with your own resume: you benefit professionally from educational experiences you haven't had yet. Joseph Heller would be delighted.

That ain't right. Classes (X) and journals (Y) should be undertaken for the intrinsic rewards found therein. *Do the Xs and Ys you want; don't do the Xs and Ys you don't want and Z will take care of itself.* You'll be closest to where you'll be happiest.

Granted, cite checking sucks. I hated cite checking. I sucked at it. Cite checking well requires an attention to detail and a zest for grammatical perfection that regular readers of this publication know I simply do not possess. But I am a better cite checker now, and that will help me embarrass myself less in legal practice. (And if my 2L moot court experience was any indicator, every little bit helps. Remember the moot court scene in *Rounders*? As I walked by this year's oral arguments, I did feel like Buckner walking back into Shea.)

I'm saying that the journal experience – like every other law school experience – is best enjoyed positively and enthusiastically. Contrary to what the Deception Benedict Arnold Professor of Law may say, we students are still probably better at editing than the machines and that's keeping us one step ahead of possible extinction. So get the hell down there and finish your gnarly Extreme Hyperactive Fireball Footnote Development 2005-ing, people. The fate of humankind is kind of at stake and there's no fate but what we make.

Mike Murphy is the human Editor-in-Chief of the Res Gestae and the Executive Notes Editor of the Michigan Journal of Race & Law. E-mail Mike at murphym@umich.edu.



Attractive Nuisance:

Introducing the Poetry of Elizabeth Bishop

By Jay Surdukowski

Readers may have noticed that two of the poems I have discussed this semester were dedicated to Elizabeth Bishop. This week we take a look at Bishop's famous poem, "One Art" from *Geography III*:

One Art
Elizabeth Bishop

The art of losing isn't hard to master;
so many things seem filled with the intent
to be lost that their loss is no disaster.

Lose something every day. Accept the fluster
of lost door keys, the hour badly spent.
The art of losing isn't hard to master.

Then practice losing farther, losing faster:
places, and names, and where it was you meant
to travel. None of these will bring disaster.

I lost my mother's watch. And look! my last, or
next-to-last, of three loved houses went.
The art of losing isn't hard to master.

I lost two cities, lovely ones. And, vaster,
some realms I owned, two rivers, a continent.
I miss them, but it wasn't a disaster.

— Even losing you (the joking voice, a gesture
I love) I shan't have lied. It's evident
the art of losing's not too hard to master
though it may look like (*Write it!*) like disaster.

Bishop is a poet's poet whose reputation has only grown since her death in 1979. The dedications of James Merrill and Robert Lowell in their poems attest to the esteem her peers had for her. But unlike the other grand dame of mid-twentieth century letters, the clinical and severe Marianne Moore, Bishop has a warmth in her polished verses: a human speaks, not a chilly mind. Bishop published very little. Her collected poetry fills a very slim volume. The reputation her poems have is that every last word is incredibly precise. All poets agonize over words, but she not only wrestled with words, she won. Again and again. Her most popular poem showcases the effortlessness and sharp



Elizabeth Bishop.

descriptive qualities of her language. Consider these lines from "The Fish":

While his gills were breathing in
the terrible oxygen
- the frightening gills,
fresh and crisp with blood,
that can cut so badly -
I thought of the coarse white flesh
packed in like feathers,
the big bones and the little bones,
the dramatic reds and blacks
of his shiny entrails,
and the pink swim-bladder
like a big peony.
I looked into his eyes
which were far larger than mine
but shallower, and yellowed,
the irises backed and packed
with tarnished tinfoil
seen through the lenses
of old scratched isinglass.
They shifted a little, but not
to return my stare.

This poem was widely anthologized, much to Bishop's dismay. She once signed a letter with some measure of consternation: "Elizabeth Fishop."

Bishop loved women and living in far off lands, Brazil most prominently, where she settled down with Lota de Macedo Soares, an architect who would create Brazil's equal to Central Park. Like James Merrill, Bishop had the means to live where she pleased, and to write. But also like Merrill she had early family traumas: a father who died young and a mother

who was committed to an institution. Geography and longing are the stuff of her elegant poetry, and both are present in this week's poem, which was written in the aftermath of her lover's suicide.

"One Art" is the poet's bittersweet struggle to bring form and grace to loss through the poet's art. The speaker works through successive losses in the villanelle form, a form Bishop sought to master over many years. It starts off with enough control; the losses are small: keys and badly spent hours. The poet-speaker has an assured voice, even a sage one. But as the poem progresses, the losses come thicker, faster, and vaster: realms, rivers, continents. Critics have pointed out that the curious enjambed lines in the later stanzas signify a kind of slippage, the words spill over the poetic shelves of the neat line end-stops, signifying the sadness and poignancy of loss not quite coming under thumb.

And throughout the poem is the back and forth struggle between that which she wants to "master" and the hovering "disaster." The earlier losses are no disaster, but the last, the loss of the beloved "you" is cornered through the inevitable form into true disaster. Disaster is the word the poem must end on. The poet must physically wrestle with the pen (*write it!*) to bring conclusion to the work, to put down that last terrible word which all along crept through the bramble of the form. The poet is struggling to hold down the lid of grief, and barely keeps it on. But the shakiness and earnestness of reigning in devastation through the poet's art with such formal grace is made all the more poignant. Like the sad person who won't let the tears come. It is all the more sad. And all the more true.

Jay Surdukowski is a 3L. E-mail comments about this article to darko@umich.edu.





Abandon All Cell Phones, All Ye Who Enter

By Patrick Barry

In response to recent complaints from professors, students, and law school visitors that the proliferation of ringing, singing, and "shot calling" cell phones have turned our classrooms, once solemn, Nokia-free places of learning and debate, into increasingly disruptive episodes of Name that Tune, the law school administration has issued the following decree, here excerpted:

§1. Cell phones, while still permitted in Hutchins Hall, are encouraged to be turned off whenever brought, carried, or otherwise transported into a Hutchins classroom.

§2. Michigan Law students, faculty, and other staff members who intend to bring, carry, or otherwise transport a cell phone, or multiple cell phones, into a Hutchins classroom but do not know how to turn off each of the cell phones they intend to so transport should attend at least one session of the ongoing "Hot Topics in International Imbecility Workshop": Romper Room—Learning to Operate the Toys You Play With. This workshop meets every Friday of the academic year for two hours, with a 15-minute break for nap time and apple juice.

§2.A. Michigan Law School visitors to whom §2 applies may either attend one of these workshops or participate in the online equivalent through the highly regarded and oft advertised Phoenix

University, remembering, of course, that if they choose the online option, they will have to provide their own apple juice...

§2.A.iv. Any alleged violator of §3 who has attended neither the workshop nor participated in the online equivalent will be judged more severely should he/she employ the already quite suspect "but I didn't know how" defense.

§3. Any cell phone that rings, beeps, buzzes, breaks into "Für Elise" or makes any other electronically generated noise in a Hutchins classroom while a registered class or event is being conducted will be held in violation of this decree and will be subject, along with its owner (see §7), to prosecution if detected by any person present in that classroom.

§4. This decree is aware that a cell phone can make other non-electronically generated noises, some just as annoying as the electronically generated one (repeated tapping comes to mind), but leaves those noises to be addressed by some other decree, or more effectively, the icy "I hope you spend all summer cite-checking" stares of neighboring classmates.

...

§7. By "owner" §3 refers to whoever brought, carried, or otherwise transported the offending cell phone into the Hutchins classroom. Whether the cell phone belongs to a friend, was received as a gift, or is paid for by the "Texans for a

Republican Majority" PAC is irrelevant to this decree. What matters is who brought it into the room. If Student A had it in her hand when she walked through the classroom door and then placed it (openly or covertly) on the person of Student B, Student A is the "owner." If Student A, standing outside the classroom, tosses a phone inside the classroom to her friend Student B, Student A is still the owner, and if the phone ends up ringing sometime during class, quite possibly a "bad friend." Exceptions will be made in the second case and like instances if it can be shown that the phone was not tossed by Student A but pulled Force-like by Student B. However, to show this, a signed letter of tutelage from Yoda or some equivalent Jedi master will be required. Exceptions will also be made to those good Samaritans who notice a dropped, left, or otherwise abandoned cell phone outside of a classroom, pick it up, and then return it to its suspected owner inside the classroom. Such Samaritans may even receive a cookie.

...

§14. C.iii...for rare instances when class is held not in a Hutchins classroom, but outside, at a professor's house, or in the basement of Rick's, see §27.D.vi...

Patrick Barry is a Ph.D. student in Literature and Language. E-mail comments about this article to rg@umich.edu.

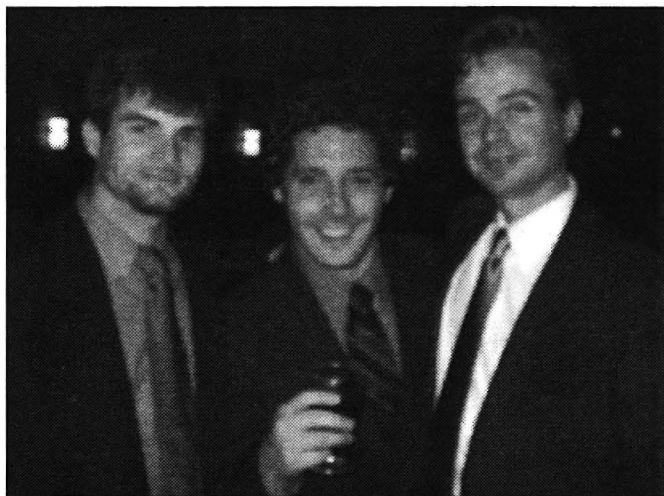


How to join the Irish Law Students Association* AUTOMATICALLY

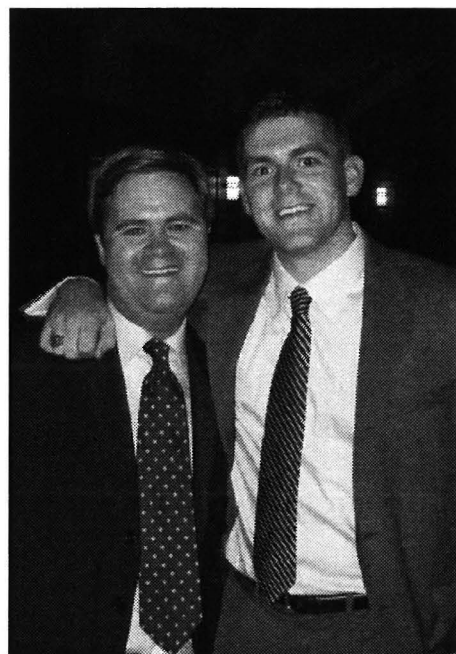
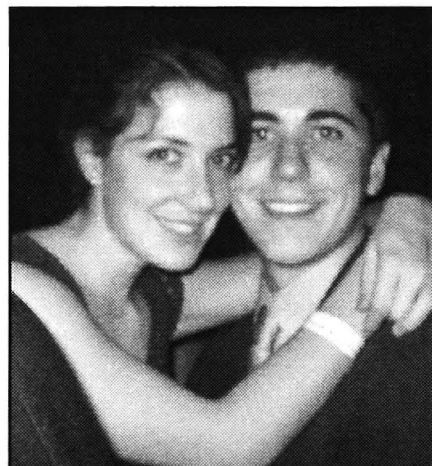
1. Go to www.umich.edu. (With your computer. It's a web site, it doesn't really exist.)
2. Search for "irishlaw."
3. Click "Bind."
4. Log in.
5. Click "Join" on the upper left.
6. You are so in. Celebrate, and watch your inbox. Closely.

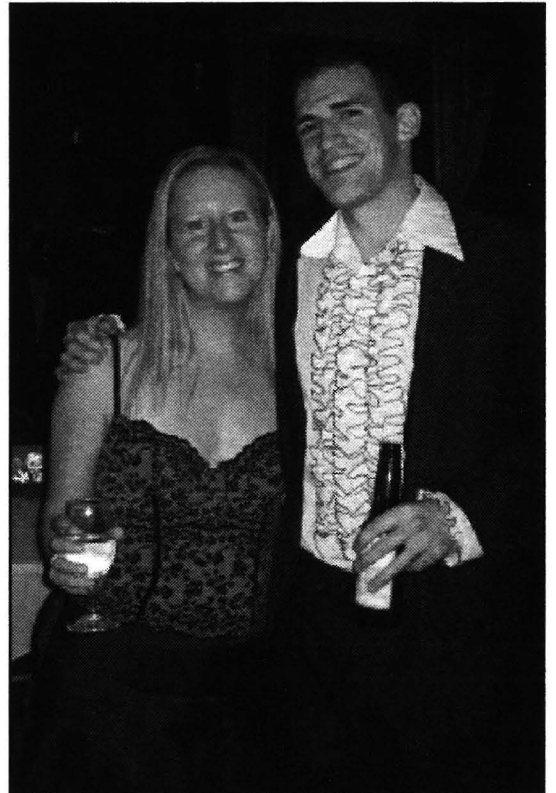
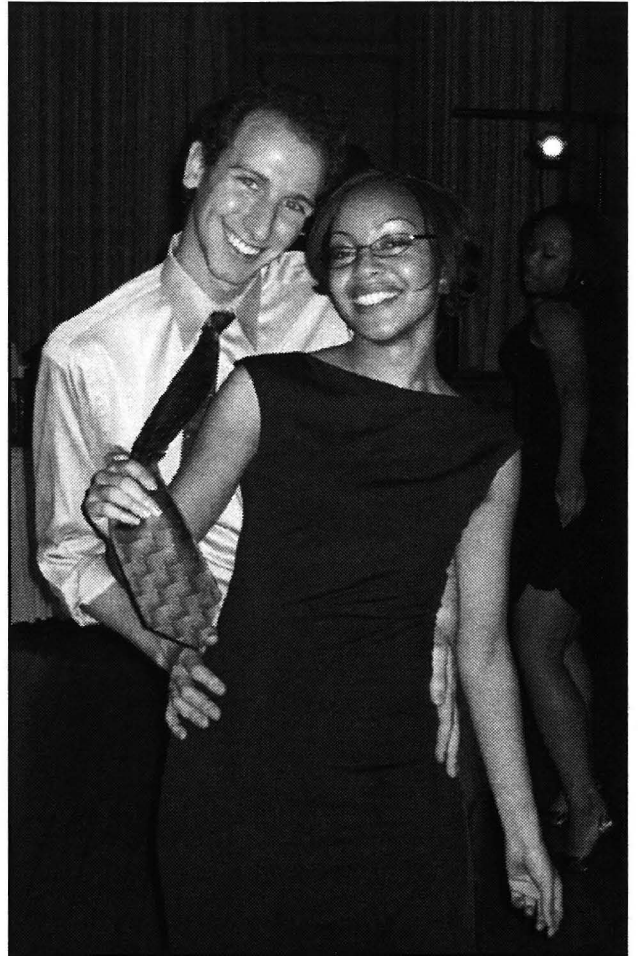
***Irish Heritage Not Required**

WLSA Throws Jenny Runkles Ball

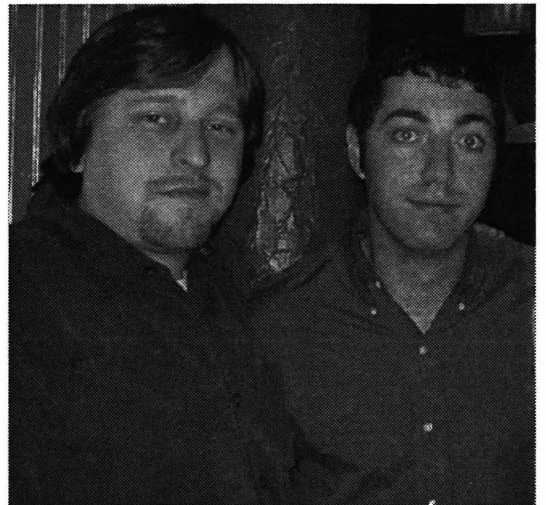
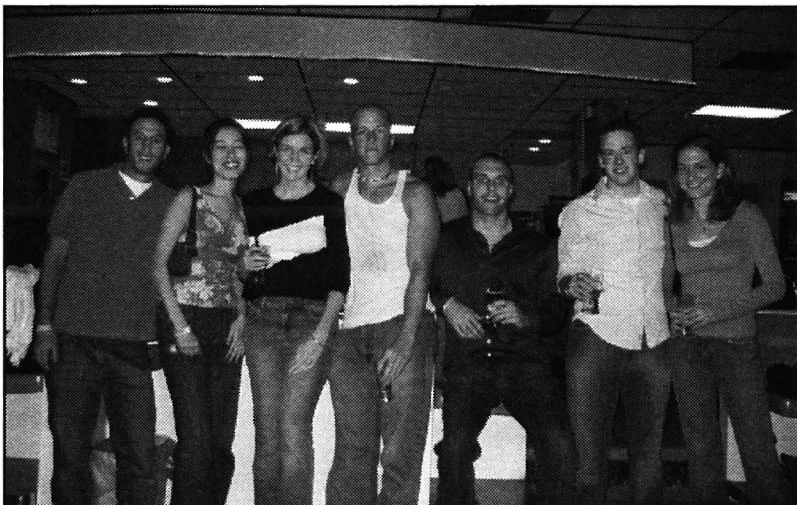
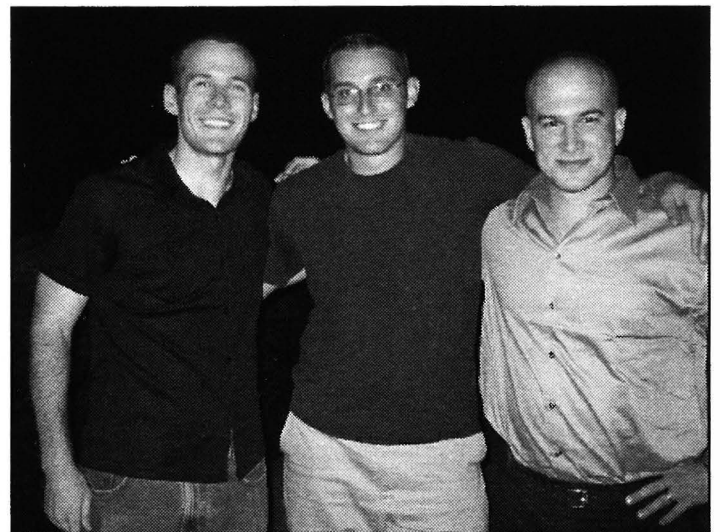
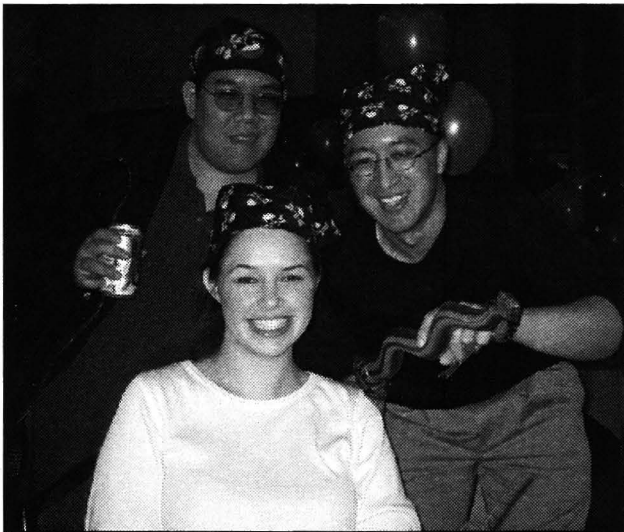


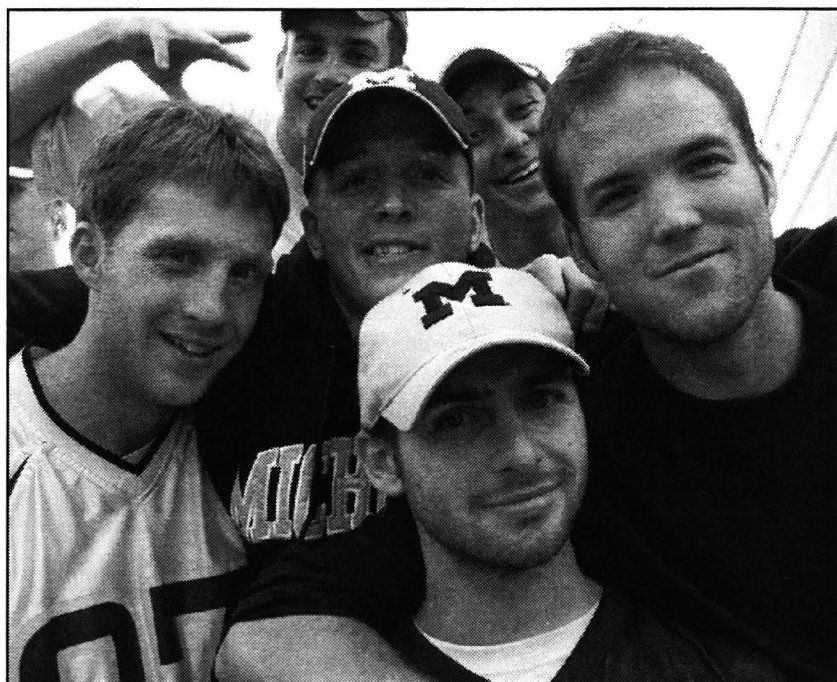
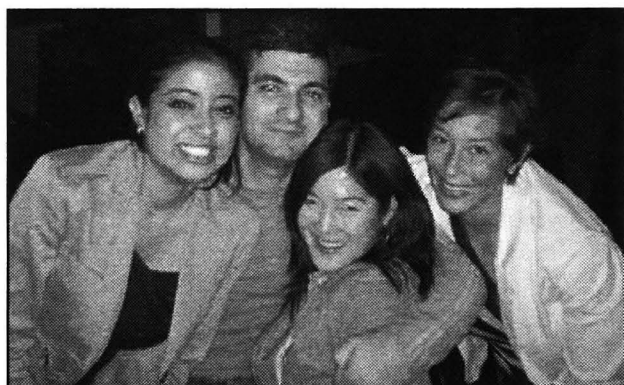
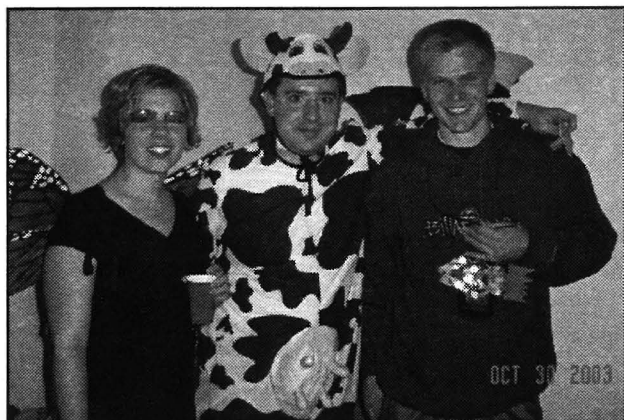
WLSA hosted its Annual Jenny Runkles Ball on Nov. 4 at 7 p.m. in the Michigan League Ballroom. The keynote speaker was Joan Entemacher, Vice President for Family Economic Security, National Women's Law Center. 2Ls Kyle Faget and Tracy Schloss were awarded the 4th annual Jenny Runkles scholarship, given to students who possess "a selfless commitment to improving the Law School community, and society as a whole, through a demonstrated devotion to public interest and diversity."





But Oh, Those Summer Nights: Three Years in the Life of 3L Section ABCD







My Opinion: 2L Speaks Out on Gender, Grades, and Giving Hugs

By Denise Brogan

I hope you don't really want my opinion on the things in this article; that would give me cause to worry about you and I have many other things to worry about right now. Still, people seem to ask my opinion on things a lot. Maybe it's my age. I'm about twice the average age of a Michigan Law student, and I've had some interesting life experiences. (Hey, how many of you have lived aboard a submarine for four years, raised three kids to happy adulthood, made and lost a million dollars, and what else was it... oh yeah, changed sex?)

That combination of age and experiences has maybe given me a unique perspective on things, but maybe not. So, I'm going to write about a few things that people seem to always ask me. Feel free to skip this article, disagree with anything said, or give me a hug in the hallways.

Why are you in law school?

I came to law school after a successful business career because I reached a point in my life where I really needed to make a difference in the world. It's my version of a mid-life crisis. It is often said that young people are idealists but get pragmatic as they age. (Said another way, young people are often liberals until they amass enough wealth to conserve.) I live backwards. I am a reformed Republican. Now, I am an idealist who believes that we need to give back to our communities and stand up for those whose voices are drowned out by the majority.

There are a great many social causes worthy of time, money and attention. But, since I'm just one person, I picked the one that is important to me. (Hopefully, I don't ignore the others – I really do believe in Martin Luther King's sentiment that "Injustice anywhere is a threat to

justice everywhere.") I am here to learn how to better help the Lesbian, Gay, Bisexual and, of course, Transgender communities achieve social equality.

Is the new wireless access policy good or evil?

EVIL. It is the thing that annoys me the most about our Law School. It is paternalistic in the extreme, and ineffective in achieving its stated goals, in my opinion. Moreover, it has kept me from being able to do things that I think are important. For example, it annoys me that I can't access Lexis/Westlaw during class.

But, all of that may just be due to the perspective of having had it and then lost it. Two years from now, when no student here has had the experience of being able to surf while in class it may no longer be an issue. For now, there's always FreeCell whenever an instructor fails to keep my attention (I understand that before computers, students had to resort to more arcane distractions like crossword puzzles during class).

What did you think of the guys in drag in last month's *Res Gestae*?

I loved it. In the transgender community we always talk about Halloween as the "high holy day for crossdressers." It is the one day a year when people can get away with playing with gender (we use a stronger word than "playing", but I'll leave that to your imagination) without the normative social sanctions that otherwise win the day. It was great for me to see other transgenders in last month's *Res Gestae*. You girls totally rock. Now, if only we can get someone to nominate a lesbian for Mr. Wolverine we'll really be on to something!

Do you worry about grades?

Yes, but I really try not to. I recognize that young people in law school, preparing for their first career, are under a different sort of pressure to achieve. So much seems to ride on your grades. The same thing that motivated us to seek a top-ten law school motivates us to compete, and our success is measured by grades. But, I am not seeking a firm job after graduation and having high grades means really little to the employers I will seek.

So, I honestly try to look at my classes as an opportunity to learn what I can about the workings of our legal system and the law, with special emphasis on the areas I care about, such as civil rights, family law, etc. I am confident that if I learn something in each of my classes I will pass – and thus far, my thesis has proved true – however, near the end of each semester I again contemplate what life might look like if I fail and I do actually panic a wee bit. What do you suppose a middle-age, transsexual, law school drop-out earns anyway?

What is your favorite thing about law school?

The opportunity it's given me to meet smart, interested people and to get involved in things I care about. I started a student group last year (not exclusive to the Law School) called TransForUM, which is a group for transgender identified students, faculty, administrators and alumni (we have members in each category). I've also been on the Outlaws board and on the Advisory Board for the LGBTTA office on campus. I really do enjoy most of my classes and all of my instructors.

Denise Brogan is a 2L. E-mail comments about this article to rg@umich.edu.



Addiction Can Be A Good Thing

By Matt Nolan

Before you call the RG or myself crazy, hear me out. If you've read my columns before you should understand that I don't believe much of anything is true in the absolute (other than Bon Jovi rocking hard, of course.) If you give me a chance, I think I can make a relatively compelling case for the fact that addiction can be a good thing.

From dictionary.com, "Addiction: the condition of being habitually or compulsively occupied with or involved in something."

I'm addicted to Diet Coke. I know how bad it is for me to consume the amount I do, yet I still always have one before my morning shower, on the way to school, during each class and break between classes of an hour or more, and then continually throughout the night as appropriate. I don't see this as bad. If I didn't rely on Diet Coke, I'd likely feel more stressed out, and spend more time searching for things to keep me awake and moving forward. Relying on Diet Coke frees me to focus on what's important. I consider this psychologically healthy.

If you think about it for a minute, you probably have a crutch you lean on. Whether it's a certain TV show you absolutely must watch (*Judge Judy?*), a certain person you need to talk to, a certain time of day you sit in "The Max," etc. Thursday nights see about 100 of us hit the bowling lanes to release some stress, and many more just hit Rick's. We can call this a "pattern" if we want, but when it becomes a necessary part of functioning effectively, which I argue something does for each of us, then it is instead an addiction. And it's good.

I also get bored when I'm not insanely busy. I'm addicted to being engaged with other people and the world. It's not that I enjoy being overrun with tasks,

duties, responsibilities, or that I don't fantasize about a week on a cruise ship with nothing but a drink in hand and my girlfriend at my side. It's just that when I'm not affirmatively relaxing, I like to be fully engaged. I need to be.

When I finish a project or task, I try to find new things to fill my time. Sometimes it's working out at the IM Building more. Sometimes it's pouring more time or effort into a relationship than I otherwise would (and occasionally more than the other person should have to absorb). Sometimes it's finding a new student organization to get involved with, even if I'm already running three of them.

This semester I've brainstormed on and begun to pitch putting together an alumni association for my high school marching band. I've created organizational charts and thought about how the money would come in and flow out. I've thought about what types of events and interactions we'd have with each other and with current band members.

I also spent a good portion of my train ride to and from Chicago for the Northwestern football game thinking and writing about what the causes of success in general are: what is inherent, what is not, and what can be controlled and improved to create forward momentum for anyone in any situation. I've begun to spin this, along with both my partner in crime from undergrad and my girlfriend, into ideas for mentoring programs in Chicago and scholarship providing foundations throughout the state of Michigan. We've even come up with potential names for it.

You may at this point just think I like being busy, but it's much more than just "like." When more than a couple days pass that I'm not fully engaged, I get depressed. I get in a rut. I reach out to friends and loved ones for more attention, I enjoy myself less when I go out, and I

feel an overarching sense of anxiousness and frustration – a withdrawal, of sorts. I believe this to be addiction, but as noted before, still a positive addiction.

I don't pretend to argue that there aren't negative side effects. Downsides should not be ignored or overlooked with any obsession. But when I look at the balance of the benefit from being compelled toward this behavior over the detractions it creates, the balance sheet comes out far in the black, just as the benefits of Diet Coke addiction outweigh the downsides in my brain.

Obsessive involvement and cola may not be your addictions, but yours have benefits and negatives too. Finding those addictions with positive balance sheets is the key, because while addictions are inevitable, they are not inherently evil.

Feeding addiction gives people comfort – this is why negative addictions are so dangerous. My point is this: my addiction to Diet Coke and to being fully engaged are tools which I use to mitigate the uncertainties of life. I view my inability to resist them to be helpful rather than hindering. I enjoy giving in to them. They provide purpose, they provide structure, and they provide comfort. I believe that we as humans have an inherent desire and tendency toward addiction – my column here accepts this as inevitable. If we can form our obsessive patterns around positive things and people (rather than drinking, smoking, stealing, or jerks) they can actually help our ability to be better people and one day, attorneys.

Matt Nolan is the Executive Editor of Res Gestae, and is also addicted to communication and email. You can send him one at mjnolan@umich.edu.



On the Supreme Court, Love and Basketball

By Nate Kurtis

Anyone who has followed the judicial wranglings of the last year has been treated to drama that would rival any episode of *The OC*. For those silly enough to have spent the last few months studying instead of gossiping, I offer a brief review of the rollercoaster ride that I dub Justicegate 2005.

The trouble began, as so many political problems do, with the American people: they elected enough Republicans to win a straight up or down vote, but not enough to end debate. As a result, the Democrats threatened to filibuster any judicial nominees they didn't like. The Republicans countered with a threat of their own: the dreaded "nuclear option." No one is really sure what this means, but it sure sounds scary. Things really got interesting when Justice Sandra Day O'Connor announced her retirement. In quick succession we had a nomination, the death of Chief Justice Rehnquist, two more nominations, a withdrawal, and another nomination.

To recap briefly: Bush nominated Alito to replace Miers, he nominated Miers to replace Roberts, he nominated Roberts to replace Rehnquist, he nominated Roberts to replace O'Connor, he swallowed the bird to catch the spider, he swallowed the spider to catch the fly, but I don't know why he swallowed the fly...

All of the uncertainty surrounding the upcoming confirmation, the new chief justice, and the retirement of Sandra "swing vote" O'Connor has people at a loss to figure out what the new Court will do. With all the hype, pundits, and counter-pundits, most wouldn't be surprised to open their morning papers to a headline like:

Supreme Court Overturns Shylock v. Antonio.

Chief Justice Roberts Cites Corbin, Orders "Specific Performance"

Washington [AP] ...Roberts, writing for the majority, said, "it is a long-established principle of contract law that we don't let you out of bad bargains, and the pound of flesh was fully considered..."

There are even those who have taken this opportunity to question the very authority vested in the Supreme Court, a body which Holmes once reverentially described as "nine scorpions in a bottle." [shake shake shake] They cite the potentially catastrophic decisions this more right-leaning Bench might make on all sorts of issues: from privacy, to overturning *Roe v. Wade*, to basically anything about Anna Nicole Smith (*Vickie Lynn Marshall v. E. Pierce Marshall*). The rather arbitrary nature of their judicial finality is a fact not lost on the Court. Justice Jackson, in a concurrence to *Brown v. Allen*, summarized the position of the Supreme Court, observing "We are not final because we are infallible, but we are infallible...because we are final."

In light of all of this recent hostility, I want to put it on record that I love the Supreme Court. Honestly, I've loved it for years. I remember hearing about Supreme Court decisions before I knew anything about the law. Back then, the names alone were enough to fire my young warped imagination. Case names like *California v. Texas* and *New York v. Massachusetts* conjured images of state-on-state grudge wars; names like *Kansas v. Jackson* and *Washington v. Larson* seemed unfair; and *Rhode Island v. McMerson* just seemed repetitive. I figured the Supreme Court must be like the greatest episode of *WWF Smackdown* ever! It took several months of an extremely expensive legal education to realize the truth: it is exactly like the *WWF*, only with far better costumes.

Seriously though, the Supreme Court is super-neato! I mean, what isn't to like about a body that prefers Mickey Mouse over Hamlet (*Widmar v. Vincent*) and knows pornography "when it sees

it" (*Jacobellis v. Ohio*)? Even the building is impressive; a marble mausoleum that comes complete with columns, freezes, and an incomprehensible but impressive sounding Latin phrase (*E qua Ljusti Ceund Erlaw*) inscribed above the door.

I'll never forget the first time I bound up those marble steps, walked through the double doors, and laid eyes on the highest court in the land. The room measures the regulation 94' long by 50' wide, and is fully detailed; complete with laminated wood floors and 10' hoops. I am (of course) referring to the Supreme Basketball Court, a vital part of the building's gym that is located directly over the judicial chamber. I'm not kidding – this thing really exists.

The justices are quite protective of their basketball court. Basketball is prohibited while they are stuck doing "judge things" – ostensibly because the dribbling can be heard through the ceiling, and is distracting to the justices (who would rather be playing hoops than listening to oral arguments on tax law).

One truly unique fact about the Supreme Court is that, even though its decisions are published, its deliberations are kept secret. The actual process by which the judges reach their positions is a mystery. But the prominence of the basketball court gives us a hint as to how it might happen. It is not hard to imagine the seemingly arbitrary decisions of each justice as a result of the mother of all shootouts. "The decision stands with four baskets and four misses as Justice O'Connor steps to the foul-line...."

Makes you wonder what kind of jump shot Alito has.

Nate Kurtis is a 1L who hopes to one day sit on the Supreme Court. Questions, comments, and free-throw pointers can be sent to him at nkurtis@umich.edu. No other warranties expressed or implied.



**EXAM, from Page 1**

dispositive issues. If you are asked a long torts question and you think the answer to what would happen in court is that the case would be knocked out because there is no personal jurisdiction over this defendant, I suspect your torts professor thinks all the really interesting torts she dreamed up are what you should be analyzing and writing about -- even if you're right on jurisdiction.

From **Roderick Hills**

Constitutional Law, Land Use Planning and Control

I am convinced that the single greatest reason why students who are intelligent and hardworking nevertheless do poorly on law school exams is that they do not respond to the facts provided by the exam question. This is especially true for questions that contain elaborate fact patterns -- so-called "issue spotting" questions. I am also convinced that this lack of responsiveness is, in part, the result of exam-taking habits formed in college that students carry over into law school, to their detriment. It is extremely important to shed these habits.

Another common failing of exam answers is lack of organization. Organization is more than just a matter of aesthetics or style. Organization shows that the writer understands the structure of the subject -- that the writer is not merely randomly applying snippets of law but actually understands how different legal rules or standards interact to form a single body of doctrine. Bad exam answers are analogous to a person slapping at flies: the writer just "hits" one point after another, seriatim, without any effort to show to what extent each point might depend on the resolution of other points or to what extent each point might, by itself, resolve the case. How can you avoid chaotic, seriatim answers? Spend some time drafting a comprehensive outline. Plunging into a question and writing a new paragraph every time you see a fact that reminds you in some vague way of some precedent is a sure way to a

mediocre answer.

Remember: law school exams are graded on a curve. Law professors write exams to distinguish answers from each other. Therefore, they usually try to hide some knotty problem in the facts that cannot be readily answered by merely applying well-established or clear doctrine. To solve these problems, you will have to take a chance by resolving the doctrinal ambiguity. This means that you will have to make up a new rule, being creative and persuasive! If you simply throw up your hands and say, "the law is ambiguous" without trying

"First it is a mistake to concentrate on one's outline. If you prepared the outline, you probably know what is in it. You need to know what is not in it."

-PROF. JAMES J. WHITE

to come up with your own resolution of the ambiguity, then you lose the chance to distinguish yourself from other exam answers. The predictable result? A median grade of, say, B-/B+. Take a stab at resolving that ambiguity. Otherwise, no guts, no glory.

From **Gil Seinfeld**

Federal Courts

Obviously, looking at prior exams given by one's professor is a good idea. This will be complicated for my students, seeing as how I've never given an exam before. (They'll have to figure out more creative ways to get inside my head.) I would, however, advise against looking at past exams before one has done a significant amount of studying: it can be demoralizing and a waste of time to try to tackle problems before you're ready.

From **James J. White**

Contracts, Sales and Payment Systems

First it is a mistake to concentrate on one's outline. If you prepared the outline, you probably know what is in it. You need to know what is not in it. How do I find what is not in my outline? One way is to go over old exams with other persons. This will have two salutary effects. It will tell you about things that you do not understand and let you go to a treatise to be informed. It will also sharpen your brain's search engine, i.e. it will give you cues from old questions about what kind of questions should stimulate search in your brain's hard drive for what kind of answers. For example, the statement in a contracts question that the parties "agreed orally" or "over the phone" should alert one to a possible statute of frauds issue.

A common error of good but not outstanding answers is that they are full of correct but marginally relevant data. For example, where there is a remote possibility of a statute of frauds issue, the best answer in the class may say "there is no statute of frauds issue here because the parties performed." That answer gets most of the points in the off possibility that the professor wanted that issue discussed. A good but not outstanding answer may devote three paragraphs (and a lot of time) to dismissing that issue. One should avoid marginally relevant commentary.

Though there may be many unknowns on law school exams, there's one common element in each one: when it's over, it's over. Leave each final behind in the exam room and resist the temptation to give it an oral autopsy in the stairwell. Grades will roll around in January soon enough. Until then, close the book on that class and ready yourself for the next.





HERZOG, from Page 3

DH: The reading lists. I mean I teach straight-on case law here. I haven't taught in political science in years, but when I teach classes that could be similar, like my seminar *Liberalism and Its Critics*, some of it is exactly what I would do with graduate students. So this term, students for me read Locke and Hume and Voltaire and Montesquieu and stuff like that. At the Law School, I then push more towards recent policy debates and more legal materials. So for instance this term my students will do a collection out of the journal *First Thing*. People are worried about the legitimacy of the Supreme Court and worried about what Richard Neuhaus has called the "naked public square" riff, the idea that we've banished religion from legal argument and political argument and that's a bad thing. I wouldn't ordinarily ask graduate students to read that kind of stuff; they would just keep soldiering along with more canonical texts after Locke and Voltaire and company.

RG: What spurred the idea for the seminar?

DH: Sometimes I feel like I'm an intellectual custodian. I just want to clean stuff up that's sloppy. So all of the liberal bashing in American politics is sloppy. Great liberals in American politics from the point of view of political theorists include Ted Kennedy and Walter Mondale and Ronald Reagan. There's a difference on the sort of social agenda side of the Republican Party and the people who are instinctively worried about feminism, worried about traditional values, worried about secularism—those guys are not liberals, but the side of the Republican Party that's invested in free markets and limited government is clearly liberal through and through. So the basic instinct isn't political at all. The basic instinct is just intellectual clarity, like what sort of thing is the liberal tradition? What different kinds of politics has it accommodated? So having said its boundaries are pretty capacious, there are still people outside it; and so in the course I want to do two things: one is to give students a sense

about what the tradition looks like, and the other is give a sense about why they're implicated.

RG: Is there a good mix of students from different sides of the political spectrum in the class?

DH: That varies. I used to just take the first 15 students who signed up, so some years yes and some years no. This year I tried the prof pick thing that we can do with an eye towards making sure that I had students saying different sorts of things. I just asked students for short statements, and I didn't have any clear picture after I got those statements about what their political views were anyway.

"Notoriously there are things that tort law does that we don't ordinarily do. Like the classic case: if you're the casual passerby and you see someone drowning and you can rescue them at zero cost and effort or risk to yourself, you don't violate any duty in not rescuing. You're not liable in tort law if you just watch. In fact, as far as I can tell, you're not liable in tort law if you take out your camcorder."

RG: You also teach 1Ls in Torts. How would you characterize 1Ls as being different?

DH: They're unconditionally a blast in Fall term because they don't yet sport any sort of cynical pose about what the enterprise is. They come to class faithfully. They do the reading. They're looking to learn. They're kind of intrigued and excited. They haven't suffered the January demoralization of getting grades back. So one of the tyrannies of a place like this, which is just structural, right, everybody here has always been a highly successful student. They waltzed through high school, they waltzed through college, and only 20% of the students here will be in

the top 20% of the class. That just means that a lot of students are looking at grades they've never seen before and it makes them unhappy. So second semester 1Ls are less enthusiastic and you have to deal with motivating people. But they're still real fun to teach because there's still this discovery thing happening, like "This is cool, I can figure this out." 2Ls and 3Ls, the upside is that they have more skills, so you can start pitching things because they're at a higher level. The downside is a more weary cynicism and detachment has set in.

RG: Is there one group you like better?

DH: No. It's hard to compare it because it's also the difference for me between teaching Torts and teaching First Amendment. The materials are very different and the kinds of issues that arise are very different. So this will sound gushing and stupid, but I like both a whole lot. I can't believe I get paid to teach.

RG: What's your interest in teaching Torts?

DH: I've always liked common law stuff. This will sound screwy, but when I was doing graduate work in political theory, I wrote a paper on comparative and contributory negligence and how they worked. I've always thought the common law was deeply smart and deeply interesting. I like private law stuff as well as public law stuff. I am both intrigued by and annoyed by law and economics, so one of the things I try to do in Torts is give my students a sense of, "here's how this machinery works, right. Here's what Kaldor-Hicks efficiency is, so on and so forth, and then here's what might be limited or lacking." If you were a very traditionally-minded person in Torts, which actually I am, you might take the talk of doing private justice as between these two parties much more seriously than any background worries about promoting efficient rules. So I have a view about that debate but I

CONTINUED on Next Page

**CONTINUED from Previous Page**

also think law and econ moves are just cool and fun. I don't care if my students agree with what I think or not. I just want to give them the skill set to carve their own views.

RG: You're often known to say in Torts, "That's just weird," in reference to tort law, so what's so weird about it?

DH: This comes a mild surprise to me. It would sort of be helpful to know the context. There are particular rules, doctrines, treatises you want to puzzle over. "That's just weird" doesn't mean I can't explain it, or it's a puzzle or go figure. It means some of the time what you're reading in the law is just tracking and being explicit about intuitive pictures about responsibility. And when something bad happens in the world, it tries to figure out if the defendant's just an unfortunate target or if the plaintiff's actually a victim. And if you look at it from that point of view, some of the weirdness that tort law is doing, or what I think is weird, is that it's trying to describe that. It's trying to figure out when wrongs ought to be legally actionable. So notoriously there are things that tort law does that we don't ordinarily do. Like the classic case: if you're the casual passerby and you see someone drowning and you can rescue them at zero cost and effort or risk to yourself, you don't violate any duty in not rescuing. You're not liable in tort law if you just watch. In fact, as far as I can tell, you're not liable in tort law if you take out your camcorder. I can imagine an IIED action depending on the facts, but anyway, that would be weird in the sense that it wouldn't be the way you might have expected coming in.

RG: You're also a First Amendment guy. What got you interested in that?

DH: Well, so back to the liberalism thing. I've always been interested in big fluffy categories like freedom. A lot of my work in political theory has been sort of anti-abstraction, right. Like let's figure out what any of this stuff means: complicated concrete questions of social practice, political policy, and the like.

First Amendment is fun because if you care about things like civil liberties or religious toleration, instead of living 300-feet up in a balloon, looking down at the ground, you can say "Okay, given those general background principles, there are still really hard questions that arise that you have to think through the answers to." I just like that intellectually. I think something that's much more interesting than purring about civil liberties or religious freedom and stuff like that is to try to figure out what the law says or what legislators say we are entitled to do in response to a particular fact or setting.

RG: You also contribute to a blog?

DH: Yes, how unfortunate. I did that solely because the chief organizer, David Velleman, is a complete gem of a human being and he asked me to do it. I think if David asked me to stab you, I might do it. But the goal of the blog was to find 25 people or so who would write once or twice a month a piece, and that never happened, and I think we have basically thrown in the towel on it.

RG: How long did you contribute for?

DH: Well I contributed for some months twice a week. I told David I would write on Tuesdays and Saturdays or something. I was a columnist on the student newspaper for four years. It's not a wholly foreign way of thinking, but it was more of a commitment than I ever initially wanted to make.

RG: Is blogging something you would ever consider doing on your own?

DH: On my own absent a request from David Velleman? No, no.

RG: Unlike other professors at the law school, you like your students to call you by your first name. Why's that?

DH: There's plenty of, at least if you're a tall white guy, there's already plenty of authority structured in the classroom. Nobody doubts, even if I wear jeans, that I'm a professor. I mean, I am the

professor. I set the reading list. I decide what we'll talk about and what we won't talk about. But I also want people out of the mindset which they slip into sometimes of "the professor is an expert who will say authoritatively true things and I will memorize as many of them as I accurately as I can and spit them back." I want people to be able to argue and say, "No, that's just gotta be wrong." I just discovered years ago it seemed at the margins to be a little bit easier for them to do that when I was Don and not when I was Professor Herzog. It's just straight pedagogy now.

RG: Does that relate also to, I mean a lot of professors wear collared shirts...

DH: Oh no, that's just because I can't tolerate wearing a coat and tie. I do wear sport shirts sometimes, but if you put me in a coat and tie I feel acutely miserable.

RG: You said before you were working on a Jonathan Swift project. What's the process for you in deciding what you want to write about?

DH: It's Saul on the road to Damascus. I'll be walking along and all of the sudden I'll have this blinding idea that I have to do something. Every book I've ever written has been done on exactly that idea. Often, when I have these ideas I think, "Gee, that's screwy," or as was the case with the last book I did, which is in press, "I don't even know how to do that yet." But I just decided I had to work on Jonathan Swift, and it felt like a blinding revelation, so I'm doing it. I don't know what will come of it.

RG: Do you have a specific topic yet?

DH: No, and that's a puzzle, right, because all of my work in one way or the other has been conceptually driven and this is just purely author driven. If I write a book that's simply a book about Jonathan Swift, there are 11 people in the world who might be interested. Scholarship is sort of lonely and irrelevant



HERZOG, from Page 17

enough without really, really narrowing your potential audience, but again, one of the luxuries of having tenure is I'll work on this really hard and if something intellectually attractive and worth doing comes out of it, I'll do it. If not, I'll say, "Gee, I had fun reading Jonathan Swift," and I'll move on.

RG: Do you find yourself when you're involved in these projects constantly referring to it in class?

DH: No. You can poll my First Amendment students. I would be astonished if they said I had said a single thing about Jonathan Swift this semester.

RG: You also give a lot of talks in different places, and I was wondering what the most interesting thing was that ever happened to you during one of those stops?

DH: (*laughs*) Many, many years ago at Boston University Law School, the opening three of four questions were almost insanely combative. And so I stopped and said, "Okay, so here are two things we can do today: we could use my paper as a jumping off point to explore some ideas together. We can try to collectively work out a better view on these subjects; or we can use my paper as an opportunity to play king of hill and try to figure out who the smartest human being in the room is and extort other people's agreements that in fact that person is the smartest person in room." And I said, "Those two things are gendered. The first is gendered feminine, the second is gendered masculine. I actually prefer the first, but I do know how to play the second if you want to play the second." And this woman in the front row said, quietly but audibly throughout the room, "You fucking wimp." So I said cheerfully, "Oh I guess we'll play the second game," which we did, and I know how to play, and they were very pleased. They had a great time attacking each other enthusiastically. I was bored.

RG: What was the paper on?

DH: The paper was early work I did on conservatism. It was an account of how and why conservatives in the French Revolution feared and despised democratic debate and how the political conflict between them and their opponents unfolded.

"[1Ls are] unconditionally a blast in Fall term because they don't yet sport any sort of cynical pose about what the enterprise is. They come to class faithfully. They do the reading. They're looking to learn."

RG: So you've been teaching here since 1983?

DH: At the University since '83 and at the Law School, I did a seminar as an adjunct in '89 or so and then I was away in '90 and '91, and so I've been at this school since '91.

RG: Did you ever have a desire to go anywhere else?

DH: We thought about it over the years. When we got here, everybody kept telling us what a great place Ann Arbor was to raise kids. We didn't have kids, so this felt tiresome or worse. Now we do have kids and it's true, Ann Arbor's a fabulous place to raise kids. So several times over the years, we've thought seriously about going. If my family wanted to go, we'd go. I just do what they want to do. I have no complaints about the job. My job is great. Ann Arbor is suiting us well and we're here.

RG: Can you tell me more about your family?

DH: What do you want to hear?

RG: You said you had kids?

DH: I have two daughters who are now almost 15 and 17.

RG: Where are you from originally?

DH: Long Island with a heavy "g." One chooses neither one's parents nor one's place of birth, but I was born in Long Island and I grew up there.

RG: I see a bike in your office. Is that one of your outside interests?

DH: It used to be. In college I took a two-week bike trip around upstate New York. I did some more serious riding past there, but now it's just a quick way to get to and from work.

RG: So what would say your outside interests are?

DH: Jazz, overwhelmingly.

RG: Who's your top guy?

DH: Oh gosh, one?

RG: Well, maybe a few.

DH: On the classic side, John Coltrane, Miles Davis, Mingus. More recent stuff, Steve Lacy, Satoko Fujii, the Art Ensemble of Chicago.

RG: Was it something you grew up liking or a recently-acquired taste?

DH: I discovered it in 9th or 10th grade and was instantly hooked.

RG: So if your house was on fire and you could only save one album and one DVD, what would they be and why?

DH: I wouldn't bother with a DVD movie because I haven't watched a single movie in over 20 years and I don't care. If I could pick one CD, what would it be? I have no clue.

RG: Just out of curiosity, what's your thing against watching movies?

DH: I have nothing against. I'm visually confused. I don't like all the violence in the movies I see and I sort of flinch and sweat in my chair. I'm easily emotionally manipulated and I prefer reading.

**ARRESTED, from Page 4**

since Fox messed with their time slot the ratings have gone downhill.

Q: Is it your understanding that the show could be in trouble?

JS: I spoke with one of the publicists for the show and they are not using the word "canceled" yet, but we'll see. It does not look good. But it wouldn't be *Arrested Development* without a fight with Fox to keep it on the air. This has happened twice before. It is almost part of the show's culture to have fans launch a massive campaign on its behalf.

Q: Are there plans in the works to mobilize the club's membership to try and save the show?

JS: Yes.

Q: When and where is the next club get-together?

JS: We might do a letter drive, maybe in front of Hutchins 100. You know, have some pizza, write a letter. That kind of thing. We are friendly law students who are helping out a show down on its luck.

Q: And members and non-members alike are welcome?

JS: Of course, we are the most egalitarian group in the law school and welcome anyone who wants to join. We feel the pain of there being no active Surf Club this year and strongly believe in having a fun outlet for people that is not law related. Legend has it that Dean Johnson danced away the 80s; we cornhole through the 00s.

For more information about the Arrested Development club, visit <http://www-personal.umich.edu/~darko/Arrested.html>. James Peyster is a 2L. E-mail comments about this article to rg@umich.edu.



Poetry:

'Twas the Night Before Finals

By Nate Kurtis

'Twas the night before finals and all through the quad
You could hear panicked 1Ls scream "Oh my dear god!"
The 2Ls and 3Ls snuggled tight in their beds
Their ennui and offers had banished their dreads.

But those 1Ls had neither, and each tried their best
As they outlined and studied for every test.
Concern for their failings was etched on each face
As they wondered why they came to this frozen place.

"Damn Contracts, Damn Civ. Pro., Damn Torts and Con Law,"
They cursed as their typing left fingers rubbed raw.
"I remember nothing from these classes I took,
And I still have to re-read my whole Crim Law book!"

We know some pull all-nighters, those damn gunner pups
The rest wanted to stone them, or simply give up.
But we didn't, we couldn't, that wasn't our way
Since we bought this already with how much we pay.

I had just settled into reviewing my notes,
Outlining my cases, and checking my quotes,
When what to my sleep deprived eyes should appear
But that hottie from Civ Pro with quite the nice rear.

She was looking real good, any boy would assert,
Dressed up in some tight jeans and a U Mich Law shirt.
In my mind she came close, tossed my books to the floor
And she started to do things that I wanted more.

A few hours later, I watched as she left,
Been distracted again, for my grade was bereft.
But the Profs were quite kind, since we'd studied all night:
"B plusses to all and to all a good night!"

*Nate Kurtis: a 1L, oft' at his wit's end...
Your questions and comments to nkurtis please send.
At times in this paper he's fibbed and he's lied,
No other warranties expressed or implied.*





Michigan Law Announcements

Congratulations to the Class of 2006!

This year's Nannes Third-Year Challenge shattered records for donors (202) and amount donated (\$42k) for a graduating class.

The Third Year Challenge Executive Committee would like to thank John Nannes for his generosity (\$50k in addition to time and effort) that made the program possible.

Third Year Challenge
2005 Executive Committee:

Talia Dubovi
Kat Duffy
Collin Foulds
Jenna Goldenberg
Liz Lintz
Sarah Niemiec
Matt Nolan
Aaron O'Donnell
Matt Rojas
Jeannine Sims
William Tran
Brad Wilson

If you are a 2L and interested in being part of next year's Executive Committee, e-mail nanneslaw@umich.edu for more information.

Thanks again to all 3Ls who pledged, and Go Blue!

APALSA Speaker Series Presents:

A Screening of
Lina Hoshino's
"Caught in Between"

Wed., Nov. 16
12:15 p.m.
250 HH

Sexual assault survivors are the ONLY victims of violent crime who have to pay for the collection of forensic evidence. These kits can cost victims up to \$1200!!

What can you do about it?
Grab a partner & your intellect, and come out to raise money for victims of sexual assault at WLSA's

**Trivial Pursuit
Tournament,
Wed., Nov. 16, 7-9 p.m.
at Leopold Brothers**

**\$15 for a team of two
(so \$7.50 per person)**

*All money raised goes to sexual
assault evidence collection kits!
Donations are also welcome.*

**PRIZES for the
finalists and winners!**

*Sign-up outside HH100 this week,
or email tschloss@umich.edu to
reserve your team's spot.*

Blue Jeans Lecture

**Wed., Nov. 16
4:30 p.m.
Lawyers Club Lounge**

**Join
Professor
Eve Brensike**

**as she discusses her experi-
ences working in both the trial
and appellate divisions of the
Maryland Office of the Public
Defender.**

**In addition, Prof. Brensike will
advise students interested in a
career in criminal law.**

The Griot

*welcomes literary and art
submissions from students,
faculty and staff.*

*The deadline for submissions is
Dec. 15, 2005.*

*Send your poetry, prose,
essay and other submissions
to abam@umich.edu.*

**The American
Constitution Society
(ACS) Presents:**

**Michigan
Supreme Court
Justice Marilyn Kelly**
*"Public Service: Not Just for
Public Interest Lawyers"*

**Wed., Nov. 16
6-8 p.m.
Vandenberg Room in the
Michigan League**

**Free admission &
refreshments. Cash bar.**

**Sponsored by Nacht & Associates,
P.C. and the ACS**

**Kelly Keenan,
Chief Legal Counsel
to Governor Granholm**

**Thurs., Nov. 17
12:20 p.m. 120 HH**

Lunch served